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**U.S. District Court  
District of Colorado (Denver)  
CIVIL DOCKET FOR CASE #: 1:09-cv-00836-WYD-MEH**

Nolan v. City of Brighton, Colorado, The et al  
Assigned to: Judge Wiley Y. Daniel  
Referred to: Magistrate Judge Michael E. Hegarty  
Cause: 42:1983 Civil Rights Act

Date Filed: 04/10/2009  
Date Terminated: 10/08/2009  
Jury Demand: Both  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****Debrorah Nolan**

represented by **Jay Wayne Swearingen**  
Animal Law Center, The  
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V.

**Defendant****City of Brighton, Colorado, The**

represented by **Steven Jay Dawes , Sr.**  
Steven J. Dawes LLC, The Law Office of  
100 Fillmore Street  
Suite 500  
Denver, CO 80206  
303-720-7541  
Email: steve@sdaweslaw.com

**Defendant**

**Brighton Police Department**  
**TERMINATED: 06/26/2009**

represented by **Steven Jay Dawes , Sr.**  
 (See above for address)

**Defendant**

**Andrew (I) Hadley**  
*in his individual capacity*

represented by **Steven Jay Dawes , Sr.**  
 (See above for address)

**Defendant**

**Andrew Hadley**  
*in his official capacity*

represented by **Steven Jay Dawes , Sr.**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b><a href="#">clear</a></b>	<b>Docket Text</b>
04/10/2009	<a href="#">1</a>	<input type="checkbox"/>	COMPLAINT against City of Brighton, Colorado, The, Brighton Police Department, Andrew (I) Hadley, Andrew Hadley ( Filing fee \$ 350, Receipt Number 18131) Summons Issued, filed by Debrorah Nolan. (Attachments: # <a href="#">1</a> Civil Cover Sheet, # <a href="#">2</a> Receipt)(jak, ) Modified on 4/16/2009 to reflect correct receipt number(jaksl, ). (Entered: 04/13/2009)
04/16/2009	<a href="#">2</a>	<input type="checkbox"/>	ORDER REFERRING CASE to Magistrate Judge Michael E. Hegarty by Chief Judge Wiley Y. Daniel on 4/16/09. (wydcd, rrk) (Entered: 04/16/2009)
04/16/2009	<a href="#">3</a>	<input type="checkbox"/>	MINUTE ORDER Scheduling Conference set for 6/26/2009 09:15 AM in Courtroom C203 before Magistrate Judge Michael E. Hegarty, by Magistrate Judge Michael E. Hegarty on 4/16/2009. (mehcd) (Entered: 04/16/2009)
05/11/2009	<a href="#">4</a>	<input type="checkbox"/>	NOTICE of Entry of Appearance by Steven Jay Dawes on behalf of all defendants (Dawes, Steven) (Entered: 05/11/2009)
05/11/2009	<a href="#">5</a>	<input type="checkbox"/>	Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <a href="#">1</a> Complaint, by Defendants City of Brighton, Colorado, The, Brighton Police Department, Andrew (I) Hadley, Andrew Hadley. (Dawes, Steven) (Entered: 05/11/2009)
05/11/2009	6		MEMORANDUM regarding <a href="#">5</a> Unopposed MOTION for Extension of Time to File Answer or Otherwise Respond re <a href="#">1</a> Complaint, filed by City of Brighton, Colorado, The, Andrew (I) Hadley, Brighton Police Department, Andrew Hadley.Motion referred to Magistrate Judge Michael E. Hegarty by Chief Judge Wiley Y. Daniel on 5/11/09. TEXT ONLY ENTRY - NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 05/11/2009)
05/11/2009	<a href="#">7</a>	<input type="checkbox"/>	MINUTE ORDER granting <a href="#">5</a> Motion for Extension of Time to Answer re <a href="#">1</a> Complaint, City of Brighton, Colorado, The answer due 6/3/2009; Brighton Police Department answer due 6/3/2009; Andrew (I) Hadley answer due 6/3/2009; Andrew Hadley answer due 6/3/2009. by Magistrate Judge Michael E. Hegarty on 5/11/09.(erv, ) (Entered: 05/12/2009)
06/03/2009	<a href="#">8</a>	<input type="checkbox"/>	ANSWER to <a href="#">1</a> Complaint, by City of Brighton, Colorado, The, Brighton Police Department, Andrew (I) Hadley, Andrew Hadley.(Dawes, Steven) (Entered: 06/03/2009)

06/22/2009	<a href="#">9</a>	<input type="checkbox"/>	Proposed Scheduling Order by Plaintiff Debrorah Nolan. (Edwards-Thomaidis, Jennifer) (Modified on 6/23/2009 a Corrected Proposed Scheduling Order has been filed at Document <a href="#">10</a> .(erv2, ). (Entered: 06/22/2009)
06/22/2009	<a href="#">10</a>	<input type="checkbox"/>	Proposed Scheduling Order <i>AMENDED</i> by Plaintiff Debrorah Nolan. (Edwards-Thomaidis, Jennifer) (Entered: 06/22/2009)
06/23/2009	11		Docket Annotation re: <a href="#">9</a> Proposed Scheduling Order, See document <a href="#">10</a> for corrected filing of the Proposed Scheduling Order. Text only entry - no document attached (erv2, ) (Entered: 06/23/2009)
06/26/2009	<a href="#">12</a>	<input type="checkbox"/>	Courtroom Minutes/Minute Order for proceedings held before Magistrate Judge Michael E. Hegarty: Scheduling Conference held on 6/26/2009. Rule 26(a)(1) Disclosures due by 7/20/2009. Joinder of Parties/Amendment of Pleadings due by 8/9/2009. Settlement Conference set for 8/28/2009 10:00 AM in Courtroom C203 before Magistrate Judge Michael E. Hegarty. Confidential Settlement Statements due by 8/21/2009. Proposed Pretrial Order due by 2/15/2010. Final Pretrial Conference set for 2/22/2010 09:15 AM in Courtroom C203 before Magistrate Judge Michael E. Hegarty. Caption shall be amended to remove The Brighton Police Department as a named defendant. (Court Reporter FTR - C. Coomes) (mehcd) (Entered: 06/26/2009)
07/01/2009	<a href="#">13</a>	<input type="checkbox"/>	SCHEDULING ORDER. By Magistrate Judge Michael E. Hegarty on 07/01/2009. (sah, ) (Entered: 07/01/2009)
08/21/2009	14		Utility Setting/Resetting Deadlines/Hearings: Pursuant to the Scheduling Order filed 07/01/2009, Discovery due by 12/1/2009. Dispositive Motions due by 12/14/2009. TEXT ONLY ENTRY - NO DOCUMENT ATTACHED (sah, ) (Entered: 08/21/2009)
08/28/2009	<a href="#">15</a>	<input type="checkbox"/>	Minute Entry for proceedings held before Magistrate Judge Michael E. Hegarty: Settlement Conference held on 8/28/2009. A settlement has been reached subject to the approval of the Brighton City Council. Set Deadline: Dismissal Papers due by 9/30/2009, if approved. (mehcd) Modified on 9/3/2009 to correct the filed date (gms, ). (Entered: 08/31/2009)
09/03/2009	16		Docket Annotation re: <a href="#">15</a> Settlement Conference. This docket entry was modified to correct the filed date. Text only entry - no document attached (gms, ) (Entered: 09/03/2009)
09/30/2009	<a href="#">17</a>	<input type="checkbox"/>	Unopposed MOTION for Extension of Time to <i>File Stipulation</i> by Defendants City of Brighton, Colorado, The, Andrew (I) Hadley, Andrew Hadley. (Dawes, Steven) (Entered: 09/30/2009)
09/30/2009	18		MEMORANDUM regarding <a href="#">17</a> Unopposed MOTION for Extension of Time to <i>File Stipulation</i> filed by City of Brighton, Colorado, The, Andrew (I) Hadley, Andrew Hadley.Motion referred to Magistrate Judge Michael E. Hegarty by Chief Judge Wiley Y. Daniel on 9/30/09. TEXT ONLY ENTRY - NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 09/30/2009)
09/30/2009	<a href="#">19</a>	<input type="checkbox"/>	MINUTE ORDER granting <a href="#">17</a> Defendants' Unopposed Motion for Enlargement of Time to File Stipulation for dismissal. Dismissal Papers due by 10/7/2009. By Magistrate Judge Michael E. Hegarty on 9/30/2009. (mehcd) (Entered: 10/01/2009)

10/07/2009	<a href="#">20</a>	<input type="checkbox"/>	STIPULATION of Dismissal of Case <i>with Prejudice</i> by Defendants City of Brighton, Colorado, The, Andrew (I) Hadley, Andrew Hadley. (Dawes, Steven) (Entered: 10/07/2009)
10/08/2009	21		Civil Case Terminated pursuant to the notice of dismissal or stipulation to dismiss filed in this case on 10/07/09. Text only entry - no document attached. (jjh, ) (Entered: 10/08/2009)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. **'09 - CV - 00836** WYD-MEH

DEBRORAH NOLAN

Plaintiff

v.

THE CITY OF BRIGHTON, COLORADO,  
BRIGHTON POLICE DEPARTMENT,  
ANDREW HADLEY, in his official and individual capacity

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

APR 10 2009

**GREGORY C. LANGHAM**  
**CLERK**

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**COMPLAINT**

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Plaintiff Deborah Nolan, by and through her counsel at The Animal Law Center, LLC., hereby files this Complaint and Jury Demand against the Defendants. The Plaintiff alleges that the Defendants' acts and omissions violated Plaintiff's rights as guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States. Defendants' conduct under color of state and city law proximately caused the deprivation of Ms. Nolan's federally protected rights. The Plaintiff further alleges that the Defendants' acts and omissions resulted in willful and wanton misconduct or gross negligence, and intentional and negligent infliction of emotional distress and conversion. Ms. Nolan seeks relief through compensatory and punitive damages and attorney's fees. Plaintiff seeks in excess of \$75,000.00

**PARTIES**

1. Plaintiff Deborah Nolan (hereinafter "Nolan") is an individual and at all pertinent times mentioned herein, resides at 300 S. 3<sup>rd</sup> Ave., Brighton, Colorado.

2. Defendant CITY OF BRIGHTON is a municipality incorporated under the laws of the state of Colorado for purposes of liability under 42 U.S.C. § 1983. It carries out law enforcement activities through the Brighton Police Department, including Brighton Animal Control. The City of Brighton is liable for the damages caused by the acts and omissions of its police officers.

3. Defendant BRIGHTON POLICE DEPARTMENT is a municipal agency for purposes of liability under 42 U.S.C. § 1983.

4. Defendant OFFICER ANDREW HADLEY is an officer of the law employed by Brighton Police Department and at all times relevant to this complaint was acting under the color of law and within the scope of his employment.

5. Defendant ANDREW HADLEY (hereinafter “Hadley”) was at all times relevant to this complaint duly appointed and sworn as a police officer working for the police department of the City of Brighton, Colorado. He is sued individually. Hadley acted under color of law in the course of carrying out the actions and omissions that violated the rights of the Plaintiff.

6. All the events described here occurred in the City of Brighton, Colorado.

#### **JURISDICTION AND VENUE**

7. This action arises under the Constitution and laws of the United States including Article III, Section 1 of the United States Constitution and 42 U.S.C. § 1983 and 42 U.S.C. § 1988.. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has authority to grant the declaratory relief requested herein pursuant to 28 U.S.C. § 2201.

8. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391. All of the events alleged herein occurred within the state of Colorado, and all of the parties are residents of

the state.

9. Jurisdiction supporting Nolan's claim for attorney fees is conferred by 42 U.S.C. § 1988.

### **FACTUAL BACKGROUND**

10. On or about July 2, 2008 at approximately at 11:30 p.m. Brighton Councilman Wayne Scott called the Brighton Police Department upon seeing two "Mastiff"-type dogs that were running at large and approached him and his small pet dog. He yelled at the dogs and they turned and ran away. Neither he nor his dog suffered any injury, nor did they have direct contact with either dog.

11. Brighton Police dispatched Officer Andrew Hadley to the scene.

12. Sec 6-4-10(2) of the Brighton Municipal Code defines an Animal Control Officer to mean any person designated by the City to enforce provisions of this chapter or any other ordinance or law of the State pertaining to animals, and shall include police officers.

13. When no Animal Control officers are on duty, Brighton dispatches a police officer for animal calls, if needed.

14. No Animal Control officers were on duty at the time Officer Hadley was dispatched.

15. The City of Brighton and the Brighton Police Department had not and did not provide any animal control training to Officer Hadley, or generally to Brighton Police Officers.

16. The City of Brighton and the Brighton Police Department do not provide any specialized equipment to Police Officers for animal control work, such as snare poles, stun sticks, etc.

17. Brighton Animal Control Officers do not carry guns.

18. Officer Hadley had been on bike patrol, previous to being dispatched to Councilman Scott's residence and was still wearing his bike patrol uniform and equipment, including bike shorts and black leather athletic shoes.

19. Officer Hadley was equipped with a gun, a baton, and a flashlight along with other police equipment on his belt, including a radio. He did not have a stun stick, snare pole, pepper spray, or other non-lethal weapons at his disposal, as are provided to Brighton Animal Control officers.

20. Officer Hadley arrived at Councilman Scott's home, across the street from Plaintiff's residence, to investigate the complaint between 11:30 and midnight on July 2, 2008. Councilman Scott specifically did not use the term "vicious", when describing why he contacted the police.

16. Councilman Scott could not positively identify the two dogs as belonging to anyone in the neighborhood but did note that he thought the house directly across the street (pointing south of his own residence) might own two dogs.

17. That the location pointed out by Councilman Scott to Officer Hadley was the residence of the Plaintiff.

18. Officer Hadley, with flashlight in hand, walked across the street to try to investigate and try and locate the dogs.

19. Officer Hadley approached the front of the Plaintiff's house shining his flashlight and looking for two dogs.

20. Officer Hadley saw two dogs on the Plaintiff's porch and continued to approach flashing his light at the dogs.



21. Officer Hadley states that the dogs left the porch and approached toward him, with one of the dogs approaching directly at him.

22. Officer Hadley did not yell or take any other action to try and stop the dogs other than shine his flashlight at them.

23. As the one dog Molly closely approached him, Officer Hadley stated that he put his foot up and put it in Molly's mouth.

24. Officer Hadley then intentionally fired one round into Molly, and she yelped and ran away bleeding severely. No attempt to fire a warning shot was made.

25. At no time was Officer Hadley injured in any way by Molly, nor was there any damage or injury to his clothing or footwear, including the shoe he placed in Molly's mouth.

26. At the time of the shooting, Molly was on the Plaintiff's property.

27. Molly had no history of biting any person or being identified as a vicious animal.

28. The other dog, Sage, also ran away following the shot.

29. Molly and Sage were found not guilty of running at large and of being vicious animals, with regard to the original call by Councilman Scott which brought Officer Hadley to the scene.

30. After shooting the Molly, Officer Hadley states that he called dispatch and informed them of the shooting. Additional police units were dispatched.

31. Officer Hadley then went to the front door of Plaintiff's house, knocked on the screen door and called out, but did not arouse or contact anyone in the home. He found the front storm door and front door unlocked. He did not enter the residence, but did open the screen door and throw his business card onto the floor of the entryway, with a note on the back to contact

him. None of the four people in the home (and a child) heard the officer. No further attempt at contact was made by any other Brighton Police officer that evening. He spent less than one minute trying to rouse any occupants.

32. While waiting for additional officers to arrive, Officer Hadley stated he took pictures of the scene, and then waited in the street until other Brighton Police units arrived shortly thereafter. However, no pictures of the scene were ever produced.

33. Upon arrival of additional units, an unsuccessful search was done by other Brighton Police officers of the neighborhood.

34. Officer Hadley did not assist with the search for the two dogs.

35. A blood trail was found leading away from the Plaintiff's residence and eventually leading back to the rear of Plaintiff's residence. Fresh blood was found along the bottom of Plaintiff's rear wooden fence gate, by other Brighton Police officers. There was a hole that may have been used to gain access by the wounded dog, Molly. However, the officers did not at any time attempt to enter the backyard to investigate whether the injured dog had entered into the back yard. Nor did any officers make any additional effort to contact or notify the four people and baby that were in the Plaintiff's residence at that time.

36. Neither dog was located by the Brighton Police Department. Molly was found dead the next morning in the Plaintiff's back yard by her family, with the Brighton Police Department having never contacted the Plaintiff or her family who were at home and asleep.

37. Officer Hadley then went to the station and wrote his report on the events that took place. After he wrote his initial account for his Incident Report, and after review he was ordered to amend it and list himself as the victim and make other changes, before the report was

finalized.

38. Officer Hadley also completed a Use of Force Report, which was reviewed by unknown officers and supervisors at the Brighton Police Department, before being officially filed.

39. No one from the Brighton Police Department or Brighton Animal Control contacted the Plaintiff until after the Plaintiff contacted them, the following morning.

40. Approximately at 8:00 a.m. on July 3, 2008, Ms. Nolan, while at work, had been informed by her son-in-law that her two dogs were missing. Ms. Nolan then contacted Brighton Animal Control to report that her two dogs were missing. At approximately 10:00 a.m. Ms. Nolan received a return call from Animal Control. Animal Control informed her that her dogs had been out “harassing the neighborhood” the night before and one of her dogs had been shot.

41. Ms. Nolan was notified that she needed to meet with the Brighton Police Officers at her residence. Two Animal Control officers arrived at her residence before Ms. Nolan herself had returned home from work. Upon the inspection of the backyard they found that a deceased dog, Molly, was lying in a strawberry patch in Ms. Nolan’s backyard. There was a significant amount of blood on the steps, indicating Molly had tried desperately to get to the Plaintiff’s back door before she finally died.

42. The deceased dog was identified as Molly, and belonged to Ms. Nolan, the Plaintiff.

43. The deceased dog Molly, belonging to the Plaintiff gave Officer Hadley no justifiable reason to unreasonably deprive the Plaintiff of her property.

44. The Defendant Officer Hadley, acting under color of law by virtue of his position as a Brighton Police Officer, and in the ordinary course and scope of his employment, wrongfully and

unreasonably seized and permanently deprived the Plaintiff of Molly in violation of Plaintiff's constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution.

45. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value and the companionship of her dog Molly, as well as suffering severe mental anguish due to the egregious nature of her loss.

### **FIRST CLAIM FOR RELIEF**

(42 U.S.C. § 1983 Fourth and Fourteenth Amendment Violation)

46. Nolan incorporates all other paragraphs of this Complaint for purposes of this claim.

47. This Claim for Relief is being brought against Officer Hadley.

48. The actions of Defendant Hadley as described herein, while acting under color of law, unlawfully deprived Nolan of the securities, rights, privileges, liberties, and immunities secured by the Constitution of the United States of America, including her right to freedom from unlawful entry of property as guaranteed by the Fourth Amendment to the Constitution of the United States of America and 42 U.S.C. §1983 in that the police meaningfully entered onto her land.

49. Defendant Hadley wantonly, knowingly, recklessly, and excessively used unnecessary force without any reasonable justification or probable cause in drawing his weapon and fatally shooting Molly. This action was in violation of Plaintiff Nolan's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States.

50. Officer Hadley fatally shot Molly without any legal right to do so, in his official

capacity as a law enforcement officer, under color of state law, and acting within the ordinary course and scope of his employment.

51. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value and companionship of her dog, Molly, as well as suffering severe mental anguish due to the egregious nature of her loss, all attributable to the deprivation of her constitutional and statutory rights guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States and protected under 42 U.S.C. § 1983.

WHEREFORE, Plaintiff prays for judgment against the Defendant Hadley as follows:

- a. actual damages in excess of \$75,000.00;
- b. a substantial sum in punitive damages;
- c. costs and reasonable attorneys fees, and
- d. such other relief as may be awarded by the Court.

### **SECOND CLAIM FOR RELIEF**

(42 U.S.C. § 1983 Fourth and Fourteenth Amendment Violation)

52. Plaintiff re-alleges ¶¶ 1-51 of this Complaint as though restated herein.

53. This Claim for Relief is being brought against the City of Brighton and the Brighton Police Department.

54. Acting under color of law and pursuant to official policy, custom or widespread practice, the City of Brighton and its Police Department knowingly, recklessly or with deliberate indifference and callous disregard of Plaintiff Nolan's rights, and the rights of dog owners in the City of Brighton, failed to instruct, supervise, control, equip, train, or discipline on a regular and

continuing basis, police officers in their duties to refrain from unlawfully killing dogs and using excessive force against dogs that pose no immediate danger.

55. Defendant City of Brighton had specific knowledge of said policy, custom or practice and exhibited a deliberate indifference to the unreasonable risk of property damage or loss which said policy, custom or practice posed.

56. The City of Brighton and its Police Department had an affirmative duty to prevent, or aid in preventing, the commission of such wrongs. Instead, knowingly, recklessly, or with deliberate indifference and callous disregard of Plaintiff Nolan's rights and the rights of dog owners in Brighton, these defendants failed and refused to do so.

57. The City of Brighton and its Police Department directly or indirectly, under color of law, approved or ratified the unlawful, deliberate, malicious, reckless, or wanton conduct of its police officers as described above.

58. As a direct and proximate result of such conduct, Defendant Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value and companionship of her dog, Molly, as well as suffering severe mental anguish due to the egregious nature of her loss, all attributable to the deprivation of her constitutional and statutory rights guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States and protected under 42 U.S.C. § 1983.

**WHEREFORE**, Plaintiff Nolan prays for judgment against the Defendant City of Brighton as follows:

- a. actual damages in excess of \$75,000.00, and
- b. such other relief as may be awarded by the Court.

### **THIRD CLAIM FOR RELIEF**

#### **(Negligence)**

59. Plaintiff re-alleges §§ 1-58 of this Complaint as though restated herein.

60. This Claim for Relief is being brought against Defendant Hadley.

61. Officer Hadley, who fatally shot the Plaintiff's dog, had a duty to the Plaintiff to employ a reasonable amount of care and skill as is ordinarily possessed by members of law enforcement, including animal control officers.

62. Officer Hadley knew or should have known that shooting a dog at point blank range that was on its owner's private property is not an acceptable police practice.

63. Officer Hadley knew or should have known that shooting a dog in this manner would cause it to suffer great bodily injury or die.

64. Officer Hadley knew or should have know that he had no legal right to investigate a complaint of a vicious animal or dog running at large by entering upon the property of the Defendant without her knowledge or a search warrant.

65. The action of Officer Hadley in fatally shooting Molly, after discovering that Molly did not injure him in any way, even after him placing his foot in her mouth, was willful, and wanton and breached his duty to adhere to the standard of care of a police officer also charged with performing the duties of an animal control officer.

66. The above-described actions demonstrate a deliberate intention to harm, or an utter indifference to, both the welfare of the Plaintiff, as well as her dog.

67. The acts and omissions of Officer Hadley were the direct and proximate cause of the internal bleeding and injuries that resulted in Molly's death.

68. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value and companionship of her dog, Molly, as well as suffering severe mental anguish due to the egregious nature of her loss.

**WHEREFORE**, Plaintiff prays for judgment against the Defendant Hadley as follows:

- a. actual damages in excess of \$75,000.00;
- b. a substantial sum in punitive damages;
- c. such other relief as may be awarded by the Court.

#### **FOURTH CLAIM FOR RELIEF**

(Conversion)

69. Plaintiff re-alleges ¶¶ 1-68 of this Complaint as though restated herein.

70. This Claim for Relief is being brought against Officer Hadley.

71. Plaintiff Nolan owned a piece of animate living property in the form of Molly her dog.

72. Officer Hadley shot and killed Molly.

73. Molly's death deprived Plaintiff Nolan of all further use and enjoyment of her property and utterly destroyed her property interest in her dog.

74. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value and companionship of her dog, Molly, as well as suffering severe mental and emotional distress due to the egregious nature of her loss.

**WHEREFORE**, Plaintiff Nolan prays for judgment against the Defendant Hadley as



follows:

- a. actual damages in excess of \$75,000.00;
- b. a substantial sum in punitive damages; and
- c. such other relief as may be awarded by the Court.

### **FIFTH CLAIM FOR RELIEF**

(Intentional Infliction of Severe Emotional Distress)

75. Plaintiff re-alleges ¶¶ 1-74 of this Complaint as though restated herein.

76. This Claim for Relief is being brought against Officer Hadley and the City of Brighton and the Brighton Police Department.

77. The decision to fatally shoot a companion animal that had not been identified as a vicious or aggressive animal, and who did not injure Officer Hadley, in the owner's own yard, was extreme and outrageous conduct.

78. Acting under color of law the City of Brighton and its police officers and Police Department knowingly, recklessly or with deliberate indifference and callous disregard of Plaintiff Nolan's rights failed to instruct, supervise, train, or equip its officers in their duties to locate and render medical assistance to a dog fatally wounded by one of its officers.

79. The City of Brighton, its Police Department, and Officer Hadley knew or should have known that shooting and severely wounding a companion animal, and then failing to locate the animal and render medical aid would cause severe emotion distress to the animal's owner.

80. Officer Hadley and other members of the Brighton Police Department acting under color of law, intentionally failed to locate Molly and render medical aid, and Molly subsequently died.

81. Officer Hadley and other City of Brighton police officers failed to contact Brighton Animal Control Officers for assistance in locating the wounded dog Molly.

82. Officer Hadley and other City of Brighton police officers failed to contact the Weld County Sherriff's office to request assistance from their K9 unit to locate the severely wounded dog Molly.

83. Brighton Police officers and Officer Hadley identified fresh blood that night on Plaintiff's back fence and saw a hole in the gate, and knew or should have known or had a reasonable belief that Molly was lying injured and dying in Plaintiff's back yard.

84. City of Brighton Police officers have a duty to enter upon private property upon a reasonable belief that it is necessary to safeguard the health of an animal and they deliberately and intentionally failed to do so, to locate and save Molly.

85. That Office Hadley and other Brighton Police officers intentionally and deliberately failed or refused to perform their duty to enter upon Plaintiff's back yard to safeguard the health and render medical aid to the dog Molly and caused severe emotional distress to Plaintiff Nolan.

86. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value of her dog, Molly, as well as suffering severe mental and emotional distress due to the egregious nature of her loss.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants City of Brighton and Officer Hadley as follows:

- a. actual damages in excess of \$75,000.00;
- b. a substantial sum in punitive damages; and

c. such other relief as may be awarded by the Court.

### **SIXTH CLAIM FOR RELIEF**

(Negligent Infliction of Severe Emotional Distress)

87. Plaintiff re-alleges ¶¶ 1-86 of this Complaint as though restated herein

88. This Claim for Relief is being brought against Officer Hadley and the City of Brighton and the Brighton Police Department.

89. Acting under color of law the City of Brighton and its police officers and Police Department negligently, recklessly or with deliberate indifference and callous disregard of Plaintiff Nolan's rights failed to instruct, supervise, train, or equip its officers in their duties to locate and render medical assistance to a dog fatally wounded by one of its officers..

90. Officer Hadley and other members of the Brighton Police Department acting under color of law, negligently failed to locate Molly and render medical aid, and Molly subsequently died.

91. City of Brighton Police officers have a duty to enter upon private property upon a reasonable belief that it is necessary to safeguard the health of an animal and they negligently failed to do so, to locate and save Molly.

92. That Office Hadley and other Brighton Police officers negligently failed or refused to perform their duty to enter upon Plaintiff's back yard to safeguard the health and render medical aid to the dog Molly and caused severe emotional distress to Plaintiff Nolan.

93. As a direct and proximate result of such conduct, Plaintiff Nolan has been damaged in various respects including, without limitation, being permanently deprived of the property value of her dog, Molly, as well as suffering severe mental and emotional distress due to the

egregious nature of her loss.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants City of Brighton and Officer Hadley as follows:

- a. actual damages in excess of \$75,000.00;
- b. a substantial sum in punitive damages; and
- c. such other relief as may be awarded by the Court.

**PRAYER FOR RELIEF**

**WHEREFORE**, Nolan respectfully requests that this Court enter judgment in her favor and against the Defendants, and grant:

- (a) Appropriate declaratory and other injunctive and/or equitable relief;
- (b) Compensatory and consequential damages, including damages cleaning and repair costs for the damages to Nolan's home, emotional distress, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;
- (c) All economic losses on all claims allowed by law;
- (d) Punitive damages on all claims allowed by law and in an amount to be determined at trial;
- (e) Attorneys fees and the costs associated with this action, including those associated with expert witness fees, on all claims allowed by law;
- (f) Pre- and post-judgment interest at the lawful rate.
- (g) Any further relief that this court deems just and proper, and any other relief as allowed by law.

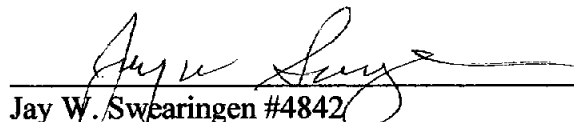
**JURY DEMAND**

The Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted this 10TH day of April, 2009.



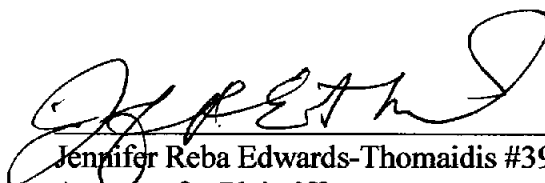
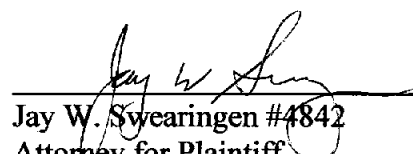
Jennifer Reba Edwards-Thomaidis #39349  
The Animal Law Center, LLC  
4465 Kipling St. Suite 108  
Wheat Ridge, Colorado 80033  
Telephone: (303) 322-4355  
Facsimile: (303) 322-4354  
[jrt@theanimallawcenter.com](mailto:jrt@theanimallawcenter.com)  
Plaintiff's Attorney



Jay W. Swearingen #4842  
The Animal Law Center, LLC  
4465 Kipling St. Suite 108  
Wheat Ridge, Colorado 80033  
Telephone: (303) 322-4355  
Facsimile: (303) 322-4354  
[jws@theanimallawcenter.com](mailto:jws@theanimallawcenter.com)  
Plaintiff's Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct image of the above and foregoing was filed with the clerk of United States District Court, for the District of Colorado, April 10, 2009.

  
\_\_\_\_\_  
Jennifer Reba Edwards-Thomaidis #39349  
Attorney for Plaintiff  
\_\_\_\_\_  
Jay W. Swearingen #4842  
Attorney for Plaintiff

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Nolan, Deborah

**DEFENDANTS**

City of Brighton: Brighton Police Department; Hadley, Andrew, individually and in his official capacity

(b) County of Residence of First Listed Plaintiff Adams

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Adams

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

The Animal Law Center, LLC., 4655 Kipling Blvd. #108, Wheat Ridge, CO, 80033, 303 322-4355, Jennifer Thomaidis and Jay Swearingen

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 Sec. 1983

Brief description of cause:

Taking of Private Property under Color of Law, without Due Process

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/10/2009

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

09 - CV - 00836

Court Name: U.S. District Court, Colorado  
Division: 1  
Receipt Number: COX010131  
Cashier ID: sg  
Transaction Date: 04/10/2009  
Payer Name: THE ANIMAL LAW CENTER

-----  
CIVIL FILING FEE  
For: THE ANIMAL LAW CENTER  
Amount: \$350.00  
-----

CHECK  
Check/Money Order Num: 5022  
Amt Tendered: \$350.00  
-----

Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

09-CV-00836

A fee of \$45.00 will be assessed on  
any returned check.



**MINUTE ENTRY FOR SETTLEMENT CONFERENCE**

TO: DOCKETING

DATED: August 31, 2009

FROM: Michael E. Hegarty  
United States Magistrate Judge

RE: Settlement conference in *Nolan v. City of Brighton, et al.*, 09-cv-00836-WYD-MEH

☐ A settlement conference was held on this date, and a settlement was not reached.

☒ A settlement conference was held on August 28, 2009, and a settlement has been reached subject to the approval of the Brighton City Council. If approved, dismissal papers should be submitted on or before September 30, 2009.

☒ The settlement conference was held for 3 hours 30 minutes total, including preparation.

☒ The settlement negotiations were concluded.

☐ No record was made.

☒ A record was made.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00836-WYD-MEH

DEBORAH NOLAN

Plaintiff,

v.

THE CITY OF BRIGHTON, COLORADO, and  
ANDREW HADLEY, in his official and individual capacities,

Defendants.

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**STIPULATION FOR DISMISSAL WITH PREJUDICE**

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Plaintiff and Defendants, by their undersigned attorneys, herein stipulate and agree that Plaintiff's Complaint and all of Plaintiff's claims be dismissed, with prejudice, each party to pay their own costs, expenses, and attorney fees.

RESPECTFULLY SUBMITTED

s/ Jay W. Swearingen

---

Jay W. Swearingen, Esq.  
Jennifer Reba Edwards-Thomaidis, Esq.  
The Animal Law Center, LLC  
4465 Kipling Street, Suite 108  
Wheat Ridge, CO 80033  
Phone: 303-322-4355  
Facsimile: 303-322-4354  
*Attorneys for Plaintiff*

s/ Steven J. Dawes

---

Steven J. Dawes  
Light, Harrington & Dawes, P.C.  
1512 Larimer Street, Suite 300  
Denver, CO 80202  
Tel.: (303) 298-1601  
Fax: (303) 298-1627  
E-mail: sdawes@lhdllaw.com  
*Attorney for Defendants*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of October 2009 I electronically filed the foregoing STIPULATION FOR DISMISSAL WITH PREJUDICE with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys at the e-mail addresses identified below:

Jennifer Reba Edwards-Thomaidis, Esq.  
The Animal Law Center, LLC  
4465 Kipling Street, Suite 108  
Wheat Ridge, CO 80033  
jrt@theanimallawcenter.com

Jay W. Swearingen, Esq.  
The Animal Law Center, LLC  
4465 Kipling Street, Suite 108  
Wheat Ridge, CO 80033  
jws@theanimallawcenter.com

s/ Steven J. Dawes

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Steven J. Dawes